IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 18TH OCTOBER 2007 / 26TH ASWINA 1929

Crl.MC.No. 3172 of 2007()

AGAINST THE ORDER DATED 11/07/2007 IN CMP. 1413 /2007 IN MC.17/2007 of J.F.C.M COURT KOTHAMANGALAM

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PETITIONERS: R1 &3 IN MC 17/07 ON THE FILE OF JFCM, KOTHAMANGAL

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1. NOUSHAD, AGED 30 YEARS, S/O.IBRAHIM, VADAKKANETHIL HOUSE, MANJAPETTY, PALLIPRAM KARA, MARAMBILLY VILLAGE.PIN 683 107

2. IBRAHIM, VADAKKANETHIL HOUSE, MANJAPETTY, PALLIPRAM KARA, MARAMBILLY VILLAGE.PIN 683 107

BY ADV. SRI.K.A.JALEEL
SRI.N.K.POULOSEKUTTY

RESPONDENTS: PETITIONER AND STATE:

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1. SAHITHA, AGED 22 YEARS, D/O.SAIDU MUHAMMED, MUKALEL HOUSE, PALLARIMANGALAM KARA, POTHANIKADU VILLAGE.PIN-686 671.

2. STATE OF KERALA REPRESENTED BY THE PUBLIC PRPSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 18/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3172 of 2007

Dated this the 18th day of October 2007

O R D E R

The petitioners are respondents 1 and 3 in a proceedings initiated by the first respondent herein under the provisions of the Domestic Violence Act. Altogether there were three respondents. First petitioner herein is the husband of the first respondent whereas 2nd petitioner is the father of the first petitioner. An interim monetary order has already been passed by the learned Magistrate. That order has been appealed under Section 29 of the Act. That appeal is pending even now. The proceedings before the learned Magistrate is continuing and that precisely is the grievance of the petitioners.

2. How can that be a valid grievance? Section 12(5) of the Act mandates that the Magistrate must endeavour to dispose of every application filed under Section 12(1) of the Act within a period of sixty days from the date of its first hearing. If that mandate were to be observed and adhered to, certainly the learned Magistrate cannot wait for the disposal of the appeal preferred under Section 29 of the Act.

4. The learned counsel for the petitioners submits that the Act has as its object family welfare and in these circumstances if sufficient time is not granted for reconciliation, the Act may not achieve its result.

5. I am unable to agree with this contention at all. There mst be a sense of expedition informing the learned Magistrate who deals with a statute like the Prevention of women from Domestic Violence Act 2005. The anxiety of the Magistrate to expeditiously dispose of the appeal is eloquently justified by Section 12(5) of the Act. The mere pendency of appeal under Section 12(5) of the Act against an interim monetary order, according to me, cannot justify the Magistrate not taking up the main application filed under Section 12(5) of the Act. The prayer raised in this Criminal Miscellaneous Case cannot be accepted. I must appreciate, if any Magistrate displays anxiety to comply with the mandate under Section 12(5) effectively.

6. This petition cannot in these circumstances succeed. This petition is dismissed.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007